

REMARKS

Claims 1-32 are pending in the present application. In the present Amendment and Response, claims 12 and 25 are amended to clarify that the inclusion of a stabilizer in the vegetable product is an optional feature of the inventive meal kits and methods. Support for the amendments is found throughout the application as filed, for example, at page 11, lines 5-12, and page 18, lines 20-26. Accordingly, no new matter is added.

Applicants respectfully request reconsideration and further examination of the application in view of the following remarks.

Provisional Election of Species, With Traverse

The claims stand subject to election of species requirements. The Office Action asserted that the application contains claims directed to the following patentably distinct species:

- Two species of treating steps, and the product treated by the respective steps, as follows:
 - Species Ia wherein the treating step is a coating on the surface of the vegetable and the vegetable is coated;
 - Species Ib wherein the treating step is infusing of the vegetable and the vegetable is infused;
- Two species of dehydrating steps as follows:
 - Species IIa wherein dehydrating occurs after the treating step;
 - Species IIb wherein dehydrating occurs before the treating step; and
- A number of species of stabilizer.

In response, Applicants hereby provisionally elect the following species with traverse:

- Species Ia, wherein the treating step is a coating on the surface of the vegetable and the vegetable is coated;
- Species IIa, wherein dehydrating occurs after the treating step; and
- Firming agent as stabilizer.

Applicants respectfully traverse the election requirement. The Office Action has not sufficiently demonstrated: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention as claimed is either independent or distinct from the other(s); and (B) the

reasons why there would be a serious burden on the examiner if restriction is not required. MPEP §808. “The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.” MPEP §808.01 and §809.02(a). The Office Action simply includes conclusory statements; thus, Applicants respectfully submit the Office has not met its burden of establishing the reasons for an election requirement.

Moreover, the Office Action focuses on features that are optional within the generic invention. Applicant has amended claims 12 and 25 to clarify this issue. Further, the optional treatment of vegetable products with stabilizer is described at pages 12 through 13, and page 18, lines 20-26.

In view of the substantial commonality in the nature of the species as identified above, the search for the subject matter of one of these species will necessitate a search of the subject matter of the other species. No substantial burden is therefore seen in consideration of all species as identified above in a single application. Reconsideration and withdrawal of the election of species requirement is respectfully requested.

However, in the event that the election of species requirement is deemed to be proper upon reconsideration, Applicants submit that claims 1-20 and 23-29 are readable on the provisionally elected species. Further, Applicants submit at least claims 1, 2, 12, 23, 24, and 25 are generic to all of the species identified.

CONCLUSION


It is respectfully submitted that this communication is fully responsive to the outstanding Requirement for Election/Restriction.

It is understood that the pending claims are presently being examined in view of the Applicant's election of species, as requested by the Examiner for search purposes. Applicant believes that the species elected is patentable over the prior art, as well as the generic claims that encompass the elected species. Accordingly, Applicant respectfully requests full consideration of the present claims be given. In view of the preceding remarks, Applicant submits that the present application is in condition for allowance.

The Examiner is invited to telephone the undersigned attorney or representatives for Applicants in the event that such communication is deemed to expedite prosecution of this application.

Respectfully Submitted,

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By: 
Karrie G. Weaver, Reg. No. 43,245
Customer No. 33072
Phone: 651-275-9836
Facsimile: 651-351-2954

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